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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,823	06/05/2001	Stephen Wladyslaw Wasko	930.328USW1	8230

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EXAMINER

GARY, ERIKA A

ART UNIT PAPER NUMBER

2685

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,823

Applicant(s)

WASKO, STEPHEN WLADYSLAW

Examiner

Erika A. Gary

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 5, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 9, 11, 13, and 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Heikkinen, US Patent Number 5,719,857 (hereinafter Heikkinen).

Regarding claim 9, Heikkinen discloses a transmitter for transmitting RF data in an RF communication network using a plurality of carrier frequencies, said RF data being represented by an information signal at a selectable carrier frequency, the transmitter comprising: a data splitter arranged to receive said information signal modulated onto an intermediate frequency lower than the carrier frequency; and two transmitter paths each having an input connected to the data splitter and each having a frequency converter arranged to upconvert the intermediate frequency modulated signal to a respective carrier frequency, the carrier frequency being individually selectable for each transmitter path, the transmitter being configured such that for each of the two transmitter paths, when an information signal is being transmitted on that transmitter path, the carrier frequency for transmission on the other transmitter path is being

selected, such that, in each case, the carrier frequency being selected for a channel is distinct from a previous carrier frequency at which that channel is transmitted [col. 3: lines 7-57].

Regarding claim 11, Heikkinen discloses each transmitter path includes an amplifier located to amplify the upconverted, optionally attenuated, information signal prior to transmission [fig. 3: refs. 14, 22].

Regarding claim 13, Heikkinen discloses a power combiner, each transmitter path having an output connected to the power combiner [fig. 3: ref. 30].

Regarding claim 15, it is inherent in the art that frequency modulators comprise a frequency generator and a signal mixer.

Regarding claim 16, Heikkinen discloses the RF data is transmitted as a sequence of time slots, the data splitter being controllable to supply the information signal of one time slot on one of the transmitter paths, and the information signal of a subsequent time slot on a subsequent transmitter path [col. 3: lines 7-57].

Regarding claim 17, Heikkinen discloses a method for transmitted RF data in an RF communication network using a plurality of carrier frequencies, the method comprising the steps of: receiving in a first time slot an information signal modulated at an intermediate frequency lower than a carrier frequency on which said information signal is to be transmitted; selecting said carrier frequency for transmission and upconverting the intermediate frequency to said carrier frequency; transmitting said information signal on a first transmitter path using said carrier frequency; and at the

Art Unit: 2685

same time, tuning a second transmitter path to a second carrier frequency to be used for transmission of an information signal in a second time slot [col. 3: lines 7-57].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikkinen in view of Durtler et al., US Patent Number 5,438,683 (hereinafter Durtler).

Claims 10 and 12 depend on claim 9. As discussed above, Heikkinen discloses the limitations of claim 9. What Heikkinen does not specifically disclose are the attenuation means of claims 10 and 12. However, Durtler teaches these features in a transmitter for use in a TDMA system.

Regarding claim 10, Durtler teaches the transmitter path includes a preset attenuation means located to attenuate the upconverted information signal prior to transmission [fig. 1: ref. 14].

Regarding claim 12, Durtler discloses each transmitter path includes adjustable attenuation means for attenuating the upconverted information signal prior to transmission [fig. 1: ref. 16].

Regarding claim 14, Durtler discloses power control means for controlling the adjustable attenuation means [col. 4: lines 39-46].

Heikkinen and Durtler are combinable because they are from the same field of endeavor, that is, transmitters for transmitting RF data. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Heikkinen to include Durtler as it is well known to include attenuation means in a transmitter to produce the desired signal without causing distortion.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 703-308-0123. The examiner can normally be reached on Monday-Thursday: 7:30-5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-305-4385. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750 or to the 2600 Customer Service Office at 703-306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Application/Control Number: 09/874,823
Art Unit: 2685


Page 6

or faxed to:

(703) 872-9314 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive Arlington, VA., Sixth Floor (Receptionist).

EAG
December 28, 2002


ERIKA GARY
PATENT EXAMINER